

Regular/Public

September 17, 2007

President Handwerk called the meeting to order. Pastor Ray Pfahler of the Christian and Missionary Alliance offered the prayer. The Pledge was recited by all.

Roll call: Purdy, Miller, Landaw, Baker, Weaver, Corfman, and Leathers were present.

Baker moved and Corfman seconded that the September 4, 2007 minutes be approved. Roll call vote. Ayes all. Motion carried.

**Public Comment:** Deborah Goudy did not appear as scheduled.

**Standing Committee Reports:**

A. Finance – Mr. Miller had no report.

B. Utilities – Mr. Landaw thanked Director Preising and all of his staff at the Power Plant for the wonderful open house to celebrate 90 years. The power plant for an older building and older equipment was in tip-top shape. The community can be very proud of what is going on down there. Handwerk: I would second that. I would agree. Thank you very much Mr. Preising for the tour and all the work the employees did down there.

C. Health & Safety – Mr. Corfman reported there will be a meeting on Monday, September 24<sup>th</sup>, immediately following the Utility Board meeting, concerning noise, wood burning, and arcades.

D. Parks and Recreation – Mr. Weaver had no report.

E. Transportation – Mr. Baker reported there would be a meeting next Monday, September 24<sup>th</sup>, after Health & Safety Committee meeting.

F. Planning – Mr. Purdy had no report.

G. Ordinance & Personnel – Ms. Leathers had no report.

**Special Committee Reports:** None.

**Administrative Reports:**

A. Mayor - Mayor Steiner had no report.

B. Safety Service Director- Director Jewell had no report.

C. Utilities Director – Director Preising thanked all the employees and all the guests for coming on Friday and Saturday. The employees did a lot of work to prepare for this and everything went very well. Saturday we had approximately 460 people go through. It turned out to be very good.

D. Finance Director – Director Leggett reported he distributed the Fund Balance Report for the period ending 08/31/2007 prior to the meeting. Miller moved and Baker seconded that the August Fund Balance Report be accepted subject to audit. Roll call vote. Ayes all. Motion carried.

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E. Law Director - Director Lutz had no report, but will be asking to amend Ordinance P-07.

F. President of Council – President Handwerk had no report.

**Old Business:**

**Ordinance O-07**

Leathers moved and Landaw seconded that Ordinance O-07, an ordinance implementing Sections 3735.65 through 3735.70 of the Ohio Revised Code, amending the boundaries of the community reinvestment area in the City of Orrville, designating a Housing Officer to administer the program and creating a Community Reinvestment Housing Council and a Tax Incentive Council, be placed on second reading. Roll call vote. Ayes all. Motion carried.

Handwerk: Mrs. Jewell do you have any further comments on this? When it is talking about designating a Housing Officer, what exactly are they talking about there?

Jewell: The Housing Officer is the terminology used in the state law that refers to the person who actually administers the program and is responsible for sending the reports into the state every year.

Leathers moved that the rules, regulations, and statutes requiring the reading of a resolution on three separate dates be suspended, Weaver seconded. Roll call vote. Ayes all. Motion carried.

Leathers moved and Purdy seconded that Ordinance O-07 be adopted as read. Roll call vote. Ayes all. Motion carried.

**RESOLUTION 41-07**

Leathers moved and Landaw seconded that Resolution 41-07, a resolution approving the form of a power sales contract or contracts with American Municipal Power-Ohio, Inc., and authorizing the execution thereof, and authorizing any other actions in connection therewith, and declaring an emergency, be placed on second reading. Roll call vote. Ayes all. Motion carried.

Landaw: I don't have anything to add. We have had our workshop and plenty of opportunities to ask Director Preising on this. It came out in the workshop and Director Preising mentioned that he had been involved with this and other projects that are going to be coming up tonight; he has been involved with most of them since the very beginning; being involved with AMP-O and I feel we have the right person to be giving us information and we have asked a lot of questions. One comment I thought about that I do want to say...I do hope in the future state and federal legislators will have a good environment for us to be able to add our generation right here at the Orrville power plant. It is good to have these opportunities to reach out and bring in power for future needs and I hope it will be financially doable and all the other factors that come into play that we can somewhere down the road have an opportunity to upgrade our own power plant a bit and get a few extra years out of it.

Miller: This is no doubt a great opportunity for Orrville, but I believe we agreed at the last meeting we would let these go three reading because of the importance of the decision.

**Resolution 44-07**

Leathers moved and Corfman seconded that Resolution 44-07, a resolution authorizing the Safety-Service Director to enter into a contract and/or contracts with the Trustees of Baughman Township, Wayne County, Ohio, to provide fire fighting services to said township for a period of two (2) years, and declaring an emergency, be placed on second reading. Roll call vote. Ayes all. Motion carried.

Corfman: This is the first of four bi-annual contracts. There is nothing new in these. If they are complete we can pass these all tonight.

Leathers moved that the rules, regulations, and statutes requiring the reading of a resolution on three separate dates be suspended, Corfman seconded. Roll call vote. Ayes all. Motion carried.

Leathers moved and Corfman seconded that Resolution 44-07 be adopted as read. Roll call vote. Ayes all. Motion carried.

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Resolution 46-07

Leathers moved and Landaw seconded that Resolution 46-07, a resolution authorizing the Safety-Service Director to enter into a contract and/or contracts with the Trustees of the Central Fire District, Wayne County, Ohio, to provide fire fighting services to said township for a period of two (2) years, and declaring an emergency, be placed on second reading. Roll call vote. Ayes all. Motion carried.

Leathers moved that the rules, regulations, and statutes requiring the reading of a resolution on three separate dates be suspended, Corfman seconded. Roll call vote. Ayes all. Motion carried.

Leathers moved and Landaw seconded that Resolution 46-07 be adopted as read. Roll call vote. Ayes all. Motion carried.

Resolution 47-07

Leathers moved and Landaw seconded that Resolution 47-07, a resolution authorizing the Safety-Service Director to enter into a contract and/or contracts with the Trustees of East Union Township, Wayne County, Ohio, to provide fire fighting services to said township for a period of two (2) years, and declaring an emergency, be placed on second reading. Roll call vote. Ayes all. Motion carried.

Leathers moved that the rules, regulations, and statutes requiring the reading of a resolution on three separate dates be suspended, Purdy seconded. Roll call vote. Ayes all. Motion carried.

Leathers moved and Corfman seconded that Resolution 47-07 be adopted as read. Roll call vote. Ayes all. Motion carried.

Resolution 50-07

Leathers moved and Corfman seconded that Resolution 50-07, a resolution authorizing the Safety-Service Director to enter into a contract and/or contracts with the Trustees of Sugar Creek Township, Wayne County, Ohio, to provide fire fighting services to said township for a period of two (2) years, and declaring an emergency, be placed on second reading. Roll call vote. Ayes all. Motion carried.

Leathers moved that the rules, regulations, and statutes requiring the reading of a resolution on three separate dates be suspended, Purdy seconded. Roll call vote. Ayes all. Motion carried.

Leathers moved and Baker seconded that Resolution 50-07 be adopted as read. Roll call vote. Ayes all. Motion carried.

Resolution 55-07

Leathers moved and Landaw seconded that Resolution 55-07, a resolution authorizing the City of Orrville, Ohio to participate in the Northeast Ohio Sourcing Office's ("NEO/SO") Bulk Road Salt Program to purchase salt through NEO/SO's Bulk Road Salt Program, be placed on second reading. Roll call vote. Ayes all. Motion carried.

Handwerk: We talked about this at the last meeting. Are there any other questions on this?

Leathers moved that the rules, regulations, and statutes requiring the reading of a resolution on three separate dates be suspended, Purdy seconded. Roll call vote. Ayes all. Motion carried.

Leathers moved and Baker seconded that Resolution 55-07 be adopted as read. Roll call vote. Ayes all. Motion carried.

**New Business:**

Lutz: Before we do the first reading of Ordinance P-07 I would ask for a motion to make an amendment to that. In the second WHEREAS sentence of that ordinance, the last line, I would ask that the words "general obligation bonds and notes" be deleted and the words "the Capital Improvement Fund" be substituted. Leathers moved and Baker seconded Mr. Lutz's recommendation. Roll call vote. Ayes all. Motion carried.

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Ordinance P-07

Leathers moved and Landaw seconded that Ordinance P-07, an ordinance levying assessments for the Dairy Lane extension project, and declaring an emergency, be placed on first reading. Roll call vote. Ayes all. Motion carried.

Handwerk: We received information from Mrs. Jewell on this. Any other questions? A good portion of this was grant money, correct?

Jewell: That is correct. We had \$100,000 grant from the State of Ohio Department of Development for this project.

Leathers moved that the rules, regulations, and statutes requiring the reading of a resolution on three separate dates be suspended, Purdy seconded. Roll call vote. Ayes all. Motion carried.

Leathers moved and Landaw seconded that Ordinance P-07 be adopted as amended. Roll call vote. Ayes all. Motion carried.

Resolution 57-07

Leathers moved and Landaw seconded that Resolution 57-07, a resolution authorizing the Director of Utilities to enter into a Power Sales contract and/or contracts with American Municipal Power-Ohio, Inc. and take other actions in connection therewith, regarding the Prairie State Energy Campus (PSEC) Project, and declaring an emergency, be placed on first reading. Roll call vote. Ayes all. Motion carried.

Landaw: I have nothing to add on this. We would like this to go three readings also.

Resolution 58-07

Leathers moved and Landaw seconded that Resolution 58-07, a resolution to make appropriations for current expenses and other expenditures of the City of Orrville, State of Ohio, during the fiscal year ending December 31, 2007, and declaring an emergency, be placed on first reading. Roll call vote. Ayes all. Motion carried.

Leggett: Council should have received a memo from me explaining these items. Primarily there are two items in this appropriations amendment. The first one affects the Permissive Motor Vehicle License Fund. This is monies collected by the State from the County and be held on our behalf. Under certain criteria the City of Orrville can request that money to be used. Mrs. Jewell is much more familiar with that criteria and the process and her department is the one who requests that money. As it comes to the work on Hostetler Road, the repairs there were originally estimated close to \$30,000 and when they got into the detail of seeing all the repairs, they finally determined what would be repaired and what would be left and that costed up to \$77,000. Mrs. Jewell decided at that level it would be best to use some of the Permissive Vehicle License funds to pay for this and \$55,000 is being requested. The other \$22,000 would come out of our Capital Improvement Fund. That is how the finances would work. If you have any questions on the actual roadway and repairs, Mrs. Jewell would have to answer those. The other portion of the amendment deals with the creation of the Water Grants Funds. If you remember at the last meeting we had to create two additional Water Grants Funds because it is required. We originally had \$1,000,000 in one fund; now we just had to split that into three funds of \$500,000, \$430,000, and \$70,000. That is just moving that money and it has no effect on the total appropriations.

Miller: On the first part, it appears we had \$30,000 we were going to use on this project and now it is going to take another \$47,000 and we are asking for \$55,000. Why are we asking for \$55,000 as opposed to \$47,000 to come out of that fund?

Leggett: We could do, I guess. Mrs. Jewell can answer that because she came up with the amount, but the Permissive Vehicle License Fund has \$113,000 at the county level. She had to come up with a number that she felt comfortable with leaving a certain amount in that fund for future projects and \$55,000 is just a number she came up with. It could have been \$47,000 just as easy. There is no magic to that number.

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Miller: My question is, if we are taking about half of the money of what that fund is now, are we going to short ourselves at some point if we need to go to that fund for something else? Unless there is some reason we are asking for more than we needed.

Jewell: It has actually built up fairly high. This is a fund we can only use for certain streets in town and when we do use this money we have to request permission from the County Engineer to use this. We thought in order to preserve our Capital Improvement Fund we would just use more of the money out of this Permissive Fund that is over at the County that gets replenished every month as receipts come in from the motor vehicle licenses. There are different components of the motor vehicle license tax and this is the first \$5 that is split in some fashion, part of it goes to the state and part of it comes to the city. The portion that comes to the city, in that first \$5, goes into this fund that can only be used for certain purposes. We then have a second Permissive Fund which comes directly to the city which we can use for any purpose. And then we have a third Permissive Fund which comes to us and we use that only for overlay and chip and seal streets. We have these three pots of money out there that are coming from Motor Vehicle License Funds and that is the reason we thought we would tap into that since this is one of those streets we can use those funds for and save the capital dollars to use on other streets here in town.

Miller: I understand your thinking there. So basically you don't feel we would be hurting ourselves in the other fund by taking more out since it keeps replenishing itself. You would be saving the Capital Fund a little money.

Jewell: Right, since we can use Capital Fund for any street, we thought we would use this one since it was one of the permissive streets.

Leggett: This is a judgment call decision Mrs. Jewell has to make. She could have requested all \$77,000, but she has to try to balance those different needs.

Leathers moved that the rules, regulations, and statutes requiring the reading of a resolution on three separate dates be suspended, Purdy seconded. Roll call vote. Ayes all. Motion carried.

Leathers moved and Baker seconded that Resolution 58-07 be adopted as read. Roll call vote. Ayes all. Motion carried.

Resolution 59-07

Leathers moved and Weaver seconded that Resolution 59-07, a resolution authorizing the Board of Control to advertise for bids and enter into a contract and/or contracts to meet the requirements of the City of Orrville, Ohio, for the Year 2008, for the following: liquid insecticide for mosquito control; services, supplies and machinery need to chip and seal roadways and/or alleys; traffic paint service; and crack sealing services, be placed on first reading. Roll call vote. Ayes all. Motion carried.

Handwerk: I have a question on one of those...for machinery needed for chip and seal...didn't we get rid of some stuff a few years ago because we were going to try to get out of the chip and seal business? What exactly are you purchasing now?

Jewell: This is actually the services where a company would come in and use their machinery. It is for chip and seal services.

Handwerk: You are not buying the machinery?

Jewell: Right. It sounds like we are buying machinery, but actually we are hiring a company who will come in with their machinery and their services.

Handwerk: Are we planning to step up the chip and seal again now, because we did do quite a few streets chip and seal this year or are we still trying to eventually...like we are not going to chip and seal over streets that are already asphalted are we?

Jewell: That is not my intention to do that. Now you have noticed there is a lot of controversy in other communities because the State and County use chip and seal over top of their asphalt to preserve it. It is a method that is used to preserve it. In the past we have used some other, like micro-surfacing and some other types of overlays to try to preserve the asphalt street, but what we are trying to do is get away from chip and seal streets and the dust associated with that. I don't see in the near future that we are going to get into chip and seal over top all the asphalt we are putting down.

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Handwerk: The ones you did this year I thought were pretty good, as far as the gravel was concerned. It wasn't near as dusty as what we had a few years ago.

Jewell: One thing we are doing now is that is actually flag instead of using limestone. It is a very strong stone and doesn't have as much dust associated with it. That is the reason for not getting as much dust. We chip and seal the ones that we know aren't going to make it to the asphalt overlay and we are trying to preserve them in the meantime until we can get there. We still need to do chip and seal and we do need to bid that out since we spend more than \$15,000 to do that in a year's time. The other ones that are added on here are the traffic paint service and the crack sealing services. Those are two programs that are now costing us enough that it is going to be over \$15,000. We are having a hard time keeping that under \$15,000. So that is something we are going to have to bid in the future. We really need to spend somewhere between \$17,000 and \$18,000 on each one of those programs. On the crack sealing we could spend a lot.

Handwerk: We used to do that ourselves.

Jewell: Yes and we do a lot of it ourselves still, but we now have a much smaller crew so there is that much more we can't get done. We hire somebody to come in and help with that.

Leathers moved that the rules, regulations, and statutes requiring the reading of a resolution on three separate dates be suspended, Purdy seconded. Roll call vote. Ayes all. Motion carried.

Leathers moved and Baker seconded that Resolution 59-07 be adopted as read. Roll call vote. Ayes all. Motion carried.

Resolution 60-07

Leathers moved and Corfman seconded that Resolution 60-07, a resolution authorizing the Director of Utilities to enter into a power sales contract and/or contracts with American Municipal Power-Ohio, Inc., and take other actions in connection therewith, regarding Hydroelectric Project participation, and declaring an emergency, be placed on first reading. Roll call vote. Ayes all. Motion carried.

Landaw: This is the hydro part of the three different projects we are looking at.

Resolution 61-07

Leathers moved and Weaver seconded that Resolution 61-07, a resolution authorizing the Board of Control to enter into a contract and/or contracts without bidding for the purchase of up to six (6) traffic signal preemption systems plus associated cabinets and signal hardware, be placed on first reading. Roll call vote. Ayes all. Motion carried.

Handwerk: Mrs. Jewell how close are we to having all the traffic lights covered with this?

Jewell: This should do it. We said in this "up to six", we believe that we only need five of them and we also need to upgrade a couple of the signals and the cabinets and the controllers that go along with them because they were so old they wouldn't accept the traffic signal interrupter software. That is the reason that we are also upgrading two of the controller units also.

Miller: In the brief you sent us you said five systems, but you are saying up to six. Does that change your estimated cost of \$44,700?

Jewell: If we purchase six, that would change our estimated cost. However, we are only looking at five at this time. As I understand it the one light that we are not going to put preemption on at this time is the one at Maple Street, which is a school crossing light. As we know, Maple Street school will be closed and they will have that at the school campus, so we don't see that we need to put a preemption on that school light at this time, because the future of that light is uncertain.

Miller: It does say in the resolution "up to six" and your intention at this point is five.

Jewell: That is correct.

Landaw: Will we be able to keep the controllers and be able to use them in the future or are they just old enough that by the time we do put in new lights somewhere we probably wouldn't use them?

Jewell: Those are too old. They don't support the current software. My guess would be that we would offer them over E-Bay or offer them to another community around here who may have older systems.

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Leathers moved that the rules, regulations, and statutes requiring the reading of a resolution on three separate dates be suspended, Corfman seconded. Roll call vote. Ayes all. Motion carried. Leathers moved and Purdy seconded that Resolution 61-07 be adopted as read. Roll call vote. Ayes all. Motion carried.

### Resolution 62-07

Leathers moved and Landaw seconded that Resolution 62-07, a resolution authorizing the Director of Utilities to prepare and submit an application and/or applications to participate in the Ohio Public Works Commission State Capital Improvement Program for Issue I funds, and enter into an agreement and/or agreements as required to obtain said funds, and declaring an emergency, be placed on first reading. Roll call vote. Ayes all. Motion carried.

Landaw: I will refer to Director Preising's September 11<sup>th</sup> memo on this. They are applying for these funds for three or four projects that would be in water or wastewater department. They are 2008 projects. The exact projects have not been specifically designated or the scope or the cost of them yet, but you are able to apply for the funding and then narrow down the projects at a later date. This is just to apply for the funds.

Leathers moved that the rules, regulations, and statutes requiring the reading of a resolution on three separate dates be suspended, Corfman seconded. Roll call vote. Ayes all. Motion carried. Leathers moved and Landaw seconded that Resolution 62-07 be adopted as read. Roll call vote. Ayes all. Motion carried.

### Resolution 63-07

Leathers moved and Landaw seconded that Resolution 63-07, a resolution authorizing the Director of Utilities to enter into an agency contract and/or contracts, and a Pike Island Development contract and/or contracts, with GENPOWER Pike Island, LLC, regarding the development of the Pike Island Power Project, and declaring an emergency, be placed on first reading. Roll call vote. Ayes all. Motion carried.

Lutz: Council you might recall you passed a resolution in July allowing the Director of Utilities to sign an agency agreement with GENPOWER using GENPOWER to facilitate the transfer of our license of the Pike Island Project to the West Virginia Public Energy Authority. For whatever reason, GENPOWER deemed it would be better, which we had discussed ahead of time too, for the City to maintain the license as that would help facilitate getting the project completed. They opted for that and sent two agreements amending the agency agreement. The original agreement they sent me left off the \$1,000,000 payment, but it did have a royalty which was one-half of one percent of any revenues that would be generated from producing power at this facility once it's completed. I kind of figured that they were thinking they were substituting that for the payment, but I asked that they put back the payment and keep the royalty and they agreed to do that and reimburse the City for any legal fees expended because if we are staying on it there is going to be some things we still have to do for FERC and those fees will be reimbursed to the City following approval, but then deducted out of any royalty we would receive. This is actually a better agreement than we had previously as we are still getting the \$1,000,000, once they get finance. There is a way that is paid out...\$600,000 when they get finance and then \$400,000 when they are up and running and producing energy. In addition to that we get one-half of one percent of the revenue generated from that facility. At this point we have no idea how much that will be, but it is better than we had in the other agreement. Handwerk: By leaving our name on that license, what liability do we have that if that folds or whatever happens?

Lutz: We have the same indemnification provisions in these agreements that we had in the other ones, so GENPOWER is going to indemnify us. They had a provision in there that our only obligation was to secure the project. I also added a provision in there excluding the \$1,000,000 they pay us from that obligation. The only thing that a bank might be able to come back at us for is the revenue we would be entitled to from the production of energy, not the \$1,000,000.

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Handwerk: If GENPOWER decides "we are not going to do this after all" and we still have our name on the license, where are we at?

Lutz: Hopefully we will be able to sell it to another person or company interested. What is happening now with energy is that renewable energy has become a big deal and so GENPOWER obviously constructing this facility and paying us these amounts because it is going to be worthwhile to them. I think they are serious about it. They had two people here last Wednesday all day just coping our documents and files. They already got the approval from FERC to continue our license. We were worried that our license might just be cancelled because it had been so many years without anything happening, but they convinced FERC to continue our license so FERC obviously thinks they are serious too about it. Anything can happen, but I think it is a good deal for the City of Orrville finally to be able to recoup some of the cost we have that we originally invested.

Landaw: That half of one percent of revenue generated, that is for as long as they generate?

Lutz: I believe so.

Landaw: So that could add up to be some money over the years.

Preising: Or we could be paid in the form of power.

Purdy: What if FERC would not have agreed to allow that license to be passed on? What would have GENPOWER had to do?

Preising: GENPOWER themselves can't do this. The licenses have municipal preferences. Any municipal could file for that license once it was cancelled. Then GENPOWER would have to do something with one of those municipals that actually came up with a license.

Purdy: They obviously think it is best to just deal with us at this point.

Lutz: In answer to Mr. Landaw's question, the royalty paid for as long as the term of the agreement. The term of the agreement is 28 years, but if the license stays in affect it automatically extends for the same number of years the license stays in affect. They do want this agreement signed if possible so that is why is scrambled to get this resolution here tonight. We would sign our part of the agreement and send it back to them for signature.

Preising: FERC has set a very tight schedule for them to follow.

Miller: Sounds like a no lose deal.

Leathers moved that the rules, regulations, and statutes requiring the reading of a resolution on three separate dates be suspended, Purdy seconded. Roll call vote. Ayes all. Motion carried.

Leathers moved and Miller seconded that Resolution 63-07 be adopted as read. Roll call vote. Ayes all. Motion carried.

**Good of the Order:**

Handwerk: Mr. Preising could you just mention where the gas aggregation is at now for people that are not sure where we are at with that.

Preising: The gas aggregation program for this year actually starts November 1, 2007 and goes through October 31, 2008. The price this year is \$9.24 per MCF. Which is one of the better deals out there right now. I can't say the prices aren't going to drop on some of the other ones, but at this point it is probably on of the best. If you are in the program, you are fine and don't have to do anything. If you are not in the program and want to get in, there are certain procedures you have to follow to do that. Mr. Hedberg or myself can explain that.

Corfman moved and Baker seconded that the council meeting be adjourned. Ayes all. Motion carried. Council was adjourned at 8:19 p.m.

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Tamra Peppard, Clerk of Council

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Dave Handwerk, President of Council